IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 202 OF 2006

M/s. M.V. Mercury Buildwell Pvt. Ltd.] .. Petitioners

Versus

1. The Municipal Corporation of Greater Bombay and 9 ors.] .. Respondents

Mr. G.C. Singh for the petitioners.

Mrs. S. Ajit Kumar for the respondent No.1.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.

DATED: 06TH MARCH, 2006

P.C. :

. Appearance put up on behalf of respondent No.1.

2. It appears that the petitioner, though he found unauthorised construction or illegal construction being put up, took no steps to move against the respondents before a civil forum. The entire case of the petitioner is that it is for the respondent-Corporation to take action. There are two aspects of the matter. One, a duty is always cast on the owner to protect his property and for that purpose,

to take such steps in law which he is entitled to. It cannot be that respondent No.1 is the only one to protect the property from illegal construction. There are no averments in the Petition that the petitioner has taken any steps to protect his property. This would, therefore, not be a fit case for this Court to exercise its extra ordinary jurisdiction.

3. It does not, however, mean that the respondent No.1, if complaints are received about illegal and unauthorised construction, should sit on the same. There is a duty cast on respondent No.1 also to act on the said complaints. If, therefore, petitioners have filed any complaints with respondent No.1, respondent No.1 is duty bound to follow the same and take steps according to law.

4. With the above observation, Petition stands disposed of. It is made clear that we have not decided any rights of the parties and have left those questions open.

Sd/-
[F.I. REBELLO, J.]

Sd/-
[ANOOP V. MOHTA, J.]